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OFFICE OF PETITIONS

In re Application of Hotta et al. Application No. 09/974,878 Filed:October 12, 2001 Attorney Docket NO. 040302-0278

DECISION DISMISSING PTA REQUEST

This decision is in response to applicants' <u>APPLICATION FOR PATENT TERM</u> <u>ADJUSTMENT UNDER 37 CFR 1.705(b)</u> filed on February 16, 2007 requesting that the Office adjust the PTA at the time of the mailing of the notice of allowance to at account for the time accrued for 1.702(b) and 1.703(b)

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being <u>DISMISSED</u> as the Office has issued the patent and calculated the <u>amount of time the patentee accrued for the Office failure to issue the application within three years of the filing under 37 CFR 1.702(b).</u> See Patent Term Adjustment calculation included herein.

Applicants are reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office has assessed the \$200.00 fee required of this request. No additional fees are required in considering this matter.

Any questions should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy



PALM INTRANET

Day : Saturday Date: 2/2/2008 Time: 14:24:15

PTA Calculations for Application: <u>09/974878</u>						
Application Filing Date:	10/12/2001	PTO Delay (PTO):	735			
Issue Date of Patent:	10/17/2006	Three Years:	0			
Pre-Issue Petitions:	0	Applicant Delay (APPL):	213			
Post-Issue Petitions:	0	Total PTA (days):	522			
PTO Delay Adjustment:	0					

	File Contents History						
Number	Date	Contents Description	PTO	APPL	START		
78.5	09/27/2006	PTA 36 MONTHS	735				
78	10/17/2006	PATENT ISSUE DATE USED IN PTA CALCULATION					
77	09/18/2006	EXPORT TO FINAL DATA CAPTURE					
76	09/15/2006	FINISHED INITIAL DATA CAPTURE					
75	09/15/2006	DISPATCH TO FDC					
74	09/05/2006	APPLICATION IS CONSIDERED READY FOR ISSUE					
73	09/05/2006	WORKFLOW - QUERY REQUEST - FINISH					
72	08/07/2006	TC RETURN TO PUBS					
71	08/16/2006	ISSUE FEE PAYMENT VERIFIED					
70	08/16/2006	ISSUE FEE PAYMENT RECEIVED					
69	06/23/2006	PUBS CASE REMAND TO TC					
68	07/11/2006	WORKFLOW - QUERY REQUEST - BEGIN					
67	06/23/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT					
66	06/22/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT					
65	06/02/2006	EXPORT TO INITIAL DATA CAPTURE					
64	05/25/2006	MAIL NOTICE OF ALLOWANCE					
63	05/25/2006	MAIL EXAMINER'S AMENDMENT					
62	05/24/2006	ISSUE REVISION COMPLETED					
61	05/24/2006	EXAMINER'S AMENDMENT COMMUNICATION					
60	05/24/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED					
59	05/24/2006	CASE DOCKETED TO EXAMINER IN GAU					
58	05/23/2006	NOTICE OF ALLOWABILITY					
57	05/09/2006	DATE FORWARDED TO EXAMINER					
			7				

56	05/01/2006	AMENDMENT AFTER FINAL REJECTION	28	54
55	05/01/2006	REQUEST FOR EXTENSION OF TIME - GRANTED		
54	01/03/2006	MAIL FINAL REJECTION (PTOL - 326)		
53	12/29/2005	FINAL REJECTION		
52	10/11/2005	DATE FORWARDED TO EXAMINER		
51	09/26/2005	RESPONSE AFTER NON-FINAL ACTION	 2	49
50	06/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
49	06/24/2005	MAIL NON-FINAL REJECTION		
48	06/24/2005	NON-FINAL REJECTION		
47	04/03/2005	DATE FORWARDED TO EXAMINER		
46	03/21/2005	RESPONSE AFTER NON-FINAL ACTION	60	44
45	03/21/2005	REQUEST FOR EXTENSION OF TIME - GRANTED		
44	10/20/2004	MAIL NON-FINAL REJECTION		
43	11/19/2003	REFERENCE CAPTURE ON IDS		
42	10/18/2004	NON-FINAL REJECTION		
41	08/11/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE		
40	10/12/2001	REFERENCE CAPTURE ON IDS		
39	08/11/2004	DATE FORWARDED TO EXAMINER		
38	08/03/2004	RESPONSE AFTER NON-FINAL ACTION		
37	08/03/2004	WORKFLOW INCOMING AMENDMENT IFW		
36	05/03/2004	MAIL NON-FINAL REJECTION		
35	05/03/2004	NON-FINAL REJECTION		
34	04/06/2004	DATE FORWARDED TO EXAMINER		
33	03/22/2004	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL		
32	03/22/2004	REQUEST FOR EXTENSION OF TIME - GRANTED		
31	02/06/2004	MAIL ADVISORY ACTION (PTOL - 303)		
30	02/06/2004	ADVISORY ACTION (PTOL-303)		
29	01/29/2004	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)		
28	01/16/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)		
27	01/22/2004	NOTICE OF APPEAL FILED		
26	01/28/2004	DATE FORWARDED TO EXAMINER		

25		AMENDMENT AFTER FINAL REJECTION		90	22
. 24	01/22/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	11/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	07/24/2003	MAIL FINAL REJECTION (PTOL - 326)			
21	07/24/2003	FINAL REJECTION			
20	05/13/2003	DATE FORWARDED TO EXAMINER			
19	05/07/2003	RESPONSE AFTER NON-FINAL ACTION			
18	02/07/2003	MAIL NON-FINAL REJECTION			
17	02/05/2003	NON-FINAL REJECTION			
16	01/24/2003	DATE FORWARDED TO EXAMINER			
15	01/15/2003	AMENDMENT AFTER FINAL REJECTION			
14	10/22/2002	MAIL FINAL REJECTION (PTOL - 326)			
13	10/21/2002	FINAL REJECTION			
12	08/14/2002	DATE FORWARDED TO EXAMINER			
11		RESPONSE AFTER NON-FINAL ACTION		33	9
10	08/07/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
9	04/05/2002	MAIL NON-FINAL REJECTION			-
8	04/03/2002	NON-FINAL REJECTION			
7	03/28/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	01/22/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	01/04/2002	TRANSFER INQUIRY TO GAU			
4	11/13/2001	APPLICATION DISPATCHED FROM OIPE			
3	11/09/2001	CORRESPONDENCE ADDRESS CHANGE			
2	10/18/2001	IFW SCAN & PACR AUTO SECURITY REVIEW		3.	
1	10/12/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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